

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Union Planters Bank)
Dist. 3, Map 35PD, Group B, Control Map 35PD,) Lewis County
Parcel 1.00, S.I. 000)
Commercial Property)
Tax Year 2006)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$50,000	\$559,700	\$609,700	\$243,880

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on October 10, 2006 in Columbia, Tennessee. In attendance at the hearing were registered Agent Michael John, Robbie Chandler and Lewis County Property Assessor Bob Johnston.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of the Union Planters Bank located at 14 E. Main Street in Hohenwald, Tennessee. Subject property originally consisted of four separate buildings that were subsequently joined together. Two of the buildings were constructed in approximately 1940. The other two buildings were constructed at a later date.¹

The taxpayer contended that subject property should be valued at \$320,000. In support of this position, the cost approach was introduced into evidence. Mr. John essentially argued that subject property is functionally obsolete because it originally consisted of four separate buildings. Mr. John noted that the second floor is not presently utilized and certain passageways are narrow. Mr. John estimated functional obsolescence at 20%. This resulted in a total of 72.7% accrued depreciation.

The assessor contended that subject property should be valued at \$564,000. In support of this position, three comparable sales were introduced into evidence. In addition, Mr. Johnston took issue with Mr. John's depreciation estimates.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

¹ It is unclear from the proof when the latter two buildings were actually constructed.

General appraisal principles require that the market, cost and income approaches to value be used whenever possible. Appraisal Institute, *The Appraisal of Real Estate* at 50 and 62. (12th ed. 2001). However, certain approaches to value may be more meaningful than others with respect to a specific type of property and such is noted in the correlation of value indicators to determine the final value estimate. The value indicators must be judged in three categories: (1) the amount and reliability of the data collected in each approach; (2) the inherent strengths and weaknesses of each approach; and (3) the relevance of each approach to the subject of the appraisal. *Id.* at 597-603.

The value to be determined in the present case is market value. A generally accepted definition of market value for ad valorem tax purposes is that it is the most probable price expressed in terms of money that a property would bring if exposed for sale in the open market in an arm's length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which it is adapted and for which it is capable of being used. *Id.* at 21-22.

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$564,000 as contended by the assessor of property.

Since the taxpayer is appealing from the determination of the Lewis County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the threshold issue in this appeal concerns the minimum evidence the appealing party must introduce to establish a prima facie case. As will be discussed below, the administrative judge finds that the taxpayer's proof in this appeal was insufficient to establish a prima facie case.

The administrative judge finds that the taxpayer's proof must initially be rejected because the cost and sales comparison approaches were not even addressed. The administrative judge recognizes that in certain instances one or more approaches to value must be considered inapplicable. Similarly, the administrative judge understands that there are situations when the cost approach properly receives greatest weight when reconciling the various indications of value. However, the administrative judge finds that all three approaches must at least be considered in order to arrive at a reliable conclusion of value. As stated in one authoritative text:

All three approaches are applicable to many appraisal problems, but one or more of the approaches may have greater significance in a given assignment. . . .

Appraisers should apply all the approaches that are applicable and for which there is data. The alternative value indications derived can either support or refute one another.

Appraisal Institute, *The Appraisal of Real Estate* at 62 (12th ed. 2001).

The administrative judge finds that even if the cost approach was properly the only approach to consider in this particular case, the taxpayer's cost approach cannot be adopted as the basis of valuation absent additional evidence. Most importantly, the administrative judge finds that Mr. John's estimate of functional obsolescence was arbitrary. The administrative judge finds that recognized procedures exist for identifying and quantifying functional obsolescence. See generally, Appraisal Institute, *The Appraisal of Real Estate* at 403-12 (12th ed. 2001). Interestingly, Mr. John's cost approach results in an indicated value of \$520,038 if his 20% deduction for additional functional obsolescence is disallowed.²

The administrative judge finds that Mr. John's analysis must also be rejected because he introduced insufficient evidence to substantiate his contention that subject property has an effective age of 1950 rather than 1970 as indicated on the property record card. The administrative judge finds that a 1970 effective age appears more reasonable based upon Mr. Johnston's testimony. The administrative judge finds that Mr. Johnston was much more familiar with both the interior of subject property and its original construction.

Given the foregoing, the administrative judge would normally affirm the current appraisal of \$609,700 based upon a presumption of correctness. In this case, however, the administrative judge finds that Mr. Johnston's contended value of \$564,000 established the upper limit of value and should therefore be adopted as the basis of valuation absent additional proof from the taxpayer.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$50,000	\$514,000	\$564,000	\$225,600

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization.

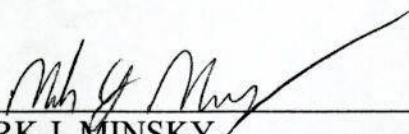
² Mr. John's initial 52.7% depreciation deduction indicates it included an allowance for both physical deterioration and functional obsolescence.

Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 25th day of October, 2006.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Michael John
Bob Johnston, Assessor of Property